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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,521	01/18/2002	Jeffrey L. Kodosky	5150-42901	1580

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EXAMINER	
PIERRE LOUIS, ANDRE	
ART UNIT	**PAPER NUMBER**
2123	

NOTIFICATION DATE	DELIVERY MODE
07/22/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/053,521	KODOSKY ET AL.	
	Examiner	Art Unit	
	ANDRE PIERRE LOUIS	2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 May 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-7 and 9-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-7 and 9-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/11/2009 has been entered.

2. Claims 1 and 8 are cancelled; and claims 2-7, 9-22 are presented for examination.

Response to Arguments

3. Applicant's arguments filed 5/11/2009 have been fully considered but they moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.1 Claims 2-7, and 9-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner what Applicant is claiming as the claims, now, taking for example independent claim 2, merely recite one or more processor and a memory with ***executable*** instructions and the Examiner assumes that the limitations following the wherein phrase are not performed since the program instructions need to be executed by the one or more processors.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5.1 Claims 18, 20, and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims, as presented, are merely directed software per se and therefore non statutory, as the claims merely recite ***executable*** instructions/program stored on a medium. [See MPEP 2106]

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6.0 Claims 2-7, 9-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blake et al. (U.S. Patent No. 5,574,854), in view of Bilger (U.S. Patent No. 6,912,429), further in view of Elliott (USPG_PUB No. 2002/0064149).

6.1 In considering the independent claim 2, 17-18, Blake et al. substantially teaches a system for performing a simulation, the system comprising: one or more processors *(see fig.1), col.1 line 46-col.2 line 12);* memory storing program instructions *(see fig.1, col.2 lines 13-36);* and an input device *(see fig.1-3, 23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41);* wherein the program instructions ***are executable*** by the one or more processors to: receive a request for input from a measurement/control program *(see fig.1-3, 23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41);* route the request for input, depending on whether the simulation mode is turned on or off, wherein selectively routing the request for input comprises: routing the request for input to the simulation program if the simulation mode is turned on *(see fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*; and routing the request for input to the input device if the simulation mode is turned off *(see fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*. However, Blake et al. does not expressly teach determine whether the simulation mode is turned on or off and turning the simulation mode on or off in response to user input. Bilger substantially teaches determine whether simulation mode is turned on or off *(col.22 lines 17-45) and* turning a simulation either on or off in a full or partial simulation mode *(see col.22 lines 17-30).* Bilger further teaches an input/output device *(fig.1 (8)* and further teaches connectivity between device, and remotely access resources via the Internet *(col.26 line 66-col.27 line 30).* While Blake shows the routing of request for input to the simulation program 2303 of 23 regardless of the state of the simulation; he, however, in combination with Bilger fail to specifically teach or fairly suggest that the routing is done selectively, as shown in the independent claims. Elliott et al. substantially teaches selectively routing of incoming requests to an external application using a

communication link *(see fig.52, para 3478)*. Blake, Bilger, and Elliott are analogous art because they are from the same field of endeavor and that the system analyzes by Elliott and Bilger are substantially similar to that of Blake et al. Therefore, it would have been obvious to one ordinary skilled in the art at the time of the applicant's invention to combine the system and method of Elliott and Bilger with the simulation method and system of Blake et al. for the purpose of turning on/off and controlling the mode of simulation, and processing the request routing selectively because Bilger teaches the advantage of using the attributes default set up in Cross to minimize time required to program Cross *(col.26 lines 24-40)*.

6.2 With regards to claim 3, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that the measurement/control program performs the request for input identically, regardless of whether the simulation mode is turned on or off *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*; *also Bilger col.22 lines 17-45)*.

6.3 As per claims 4, 19-20, the combine teachings of Blake et al., Bilger, and Elliott substantially teach the output device *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41); also Bilger fig.1 (8);* wherein the program instructions are further ***executable*** by the one or more processors to: receive a request for output from the measurement/control program *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*; and selectively route the request for output, depending on whether the simulation mode is turned on or off, wherein selectively routing the request for output comprises: routing the request for output to the simulation program if the simulation mode is turned on *(see Elliott fig.52, para 3478; Blake et al. fig.1-3, 20-23, also col.1 line 17-*

col.3 line 36, also col.49 line 56-col.50 line 41); routing the request for output to the output device if the simulation mode is turned off *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41).*

6.4 Regarding claims 5, 21-22, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that wherein after determining that the simulation mode is turned on and routing the request for input to the simulation program, the program instructions are further ***executable*** to: receive results for the input request from the simulation program *(see Blake et al. fig.1, 3, 20-23, also col.1 line 17-col.3 line 36, col.49 line 56-col.50 line 41; and Bilger col.22 lines 17-45)*; and pass the results received from the simulation program to the measurement/control program *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41).*

6.5 With regards to claim 6, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that the request for input comprises a request for input through a first I/0 channel *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, col.49 line 56-col.50 line 41)*; wherein the program instructions are further ***executable*** by the one or more processors to determine that the first I/0 channel is mapped to a first software routine of the simulation program *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*; wherein said routing the request for input to the simulation program comprises routing the request for input to the first software routine of the simulation program *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41).*

6.6 As per claim 7, the combine teachings of Blake et al., Bilger, and Elliott substantially teach wherein the program instructions are further executable by the one or more

processors to map the first I/0 channel to the first software routine of the simulation program in response to user input requesting the first I/O channel to be mapped to the first software routine of the simulation program *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41).*

6.7 As per claim 9, the combine teachings of Blake et al., Bilger, Elliott substantially teach that wherein turning the simulation mode either on and off comprises turning the simulation mode either on or off without requiring the measurement/control program to be modified, wherein the measurement /control program operates correctly, regardless of whether the simulation mode is on or off *(see Bilger col.22 lines 17-45, Blake et al. fig.1-3, 8, 20-23, also col.1 line 17-col.3 line 36, col.49 line 56-col.50 line 41).*

6.8 With regards to claim 10, the combine teachings of Blake et al., Bilger, Elliott substantially teach that wherein the measurement/control program is stored in the memory and executed by the one or more processors *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41).*

6.9 Regarding claim 11, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that the simulation program is also stored in the memory and executed by the one or more processors *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41).*

6.10 As per claim 12, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that wherein the one or more processors are one or more processors of a first computer system included in the system *(see Blade fig., Elliott fig.52);* wherein the system further includes a second computer system coupled to the first computer system *(see Blake et al.*

fig.1-3, 20-23, also col.1 line 17-col.3 line 36, col.49 line 56-col.50 line 41); *also Bilger fig.1 and Elliott fig. 52);* wherein the simulation program executes on the second computer system *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*; *also Bilger fig.1 and Elliott fig.52).*

6.11 With regards to claim 13, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that the simulation program executes to simulate a physical system *(see Blake et al. fig.1-3, 20-23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*; *also Bilger fig.1).*

6.12 Regarding claim 14, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that the simulation program executes to simulate operation of a device *(see Blake et al. fig.1-3, 10A-10B, 23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*; *also Bilger fig.1, 7-10).*

6.13 As per claim 15, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that the measurement/control program comprises a graphical program, wherein the graphical program comprises a plurality of interconnected nodes that visually indicate functionality of the graphical program *(see Blake et al. fig.1-3, 10A-10B, 23, also col.1 line 17-col.3 line 36, also col.49 line 56-col.50 line 41)*; *also Bilger col.26 line 24-col.27 line 30 and col.22 lines 17-45).*

6.14 With regards to claim 16, the combine teachings of Blake et al., Bilger, and Elliott substantially teach that the simulation program comprises a graphical program, wherein the graphical program comprises a plurality of interconnected nodes that visually indicate functionality of the graphical program *(see Blake et al. fig.1-3, 10A-10B, 23, also col.1 line 17-*

col.3 line 36, also col.49 line 56-col.50 line 41); also Bilger col.26 line 24-col.27 line 30 and col.22 lines 17-45).

Conclusion

7. Claims 2-7, 9-22 are rejected and **THIS ACTION IS Non-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Pierre-Louis whose telephone number is 571-272-8636. The examiner can normally be reached on Mon-Fri, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul L. Rodriguez can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/A. P. L/
Examiner, Art Unit 2123
July 17, 2009

/Paul L Rodriguez/
Supervisory Patent Examiner, Art Unit 2123